

Office of the City Attorney

Why Do We Have A Pension Crisis?

January 20, 2005

WHAT IS THE ROLE OF THE CITY ATTORNEY?

INDEPENDENT CITY ATTORNEY

“The city attorney is to be elected by the people. This is a guarantee that the legal head of the government will be able to fearlessly protect interests of all San Diego and not merely be an attorney appointed to carry out wishes of council or manager.”

- Facts About the Proposed City Charter, 1931

REPRESENTING THE CITY AND INVESTIGATING CITY OFFICIALS

- As an independently elected City Official, the City Attorney is ultimately responsible to the People.
- The City Attorney is the “guardian of the public interest.” (CA Supreme Court)
- In order to protect the Public Interest the City Attorney “has a duty to investigate any claim of wrongdoing by a public officer.” (CA Attorney General)

HOW IS THE CITY ATTORNEY FULFILLING HIS DUTY?

- Finding out what City Officials knew and when they knew it, in order to satisfy the concerns of the City's outside auditor KPMG.
- Gathering documents requested by the U.S. Attorney, FBI, and U.S. Securities Exchange Commission ("SEC")
- Presenting a Pension Solution Plan

**WILL TAXPAYERS PAY BILLION
DOLLAR PENSION BILL???**

**Unless we solve the pension
problem taxpayers will have
to pay pension plan bill:**

\$1,157,000,000

WHAT YOU PAY

HAVE: \$2,375,000,000

OWE: \$3,532,000,000

\$1,157,000,000

30 June 2003

WE ONLY HAVE 67.2% OF WHAT WE NEED

Have: \$2.375 Billion

Need: \$3.532 Billion

We only have **67.2%** of what we need.

This is called the **FUNDED RATIO.**

The FUNDED RATIO is **67.2%.**

FUNDED RATIO IS VERY IMPORTANT

- The FUNDED RATIO is:
 - **ASSETS** (what we have)
divided by
 - **LIABILITIES** (what we owe)
- The goal is to have our assets match our liabilities.

WHAT IS THE HISTORY OF OUR FUNDED RATIO?

Year	Ratio	Shortfall
2000	97.3%	\$69 Million
2001	89.9%	\$284 Million
2002	77.3%	\$720.7 Million
2003	67.2%	\$1.157 Billion
2004	?	?

CITY IS UNDER INVESTIGATION FOR HIDING THE TRUE FUNDED RATIO

- We asked people to buy our bonds without telling them the true FUNDED RATIO.
- Federal officials will decide whether City Officials will be held accountable.

HOW THE FUNDED RATIO GOT SO LOW

The Mayor and Council:

- Diverted City money that should have gone to the pension plan
- Siphoned off pension plan earnings
- Increased pension benefits without the money to pay for them
- Created extra benefits for some union presidents

EXAMPLES OF PENSION BENEFITS CREATED WITH NO MONEY TO PAY

The Mayor and Council:

- Allowed City employees to buy pension credits. This is known as “AIRTIME.” Retirement Board set rate at huge discounts.
- Retroactively increased pension benefits.
- Established DROP program that allows City employees to receive their salaries and pensions at the same time.

WHAT THE CITY COUNCIL HAS DONE TO ADDRESS THE PROBLEM

- Hired Vinson & Elkins law firm to conduct independent investigation on disclosure practices
- Hired KPMG to conduct independent audit of the City's 2003 financial statements

KPMG AND VINSON & ELKINS

- KPMG is not satisfied with the Vinson & Elkins report
- KPMG told City in October 2004 that it must investigate and address potential illegal acts by City Officials
- City Attorney is now conducting an independent investigation to satisfy KPMG's concerns

CITY ATTORNEY DISCOVERS FATAL FLAW IN V&E REPORT

- “A draft of the actuarial report for FY 2001 became available on February 12, 2002.”

Vinson & Elkins Report, pg. 79

- The Mayor’s Blue Ribbon Committee report was presented to the City Council’s Rules Committee on February 27, 2002.

CITY ATTORNEY DISCOVERS FATAL FLAW IN V&E REPORT

- Although the FY 2001 Report was available on February 12, 2002, the V&E Report mistakenly advised that the BRC did not have such report:

“The Mayor’s Blue Ribbon Committee had no information on the SDCERS funded ratio more current than June 30, 2000, which, at 97% ... was the highest ever achieved by the system.”

- Vinson & Elkins Report, pg. 76

CITY ATTORNEY'S GOALS

- Complete City Attorney investigation to satisfaction of KPMG
- FY2003 and FY2004 audits are completed by independent auditors
- SEC and U.S. Attorney's Office complete their investigations
- City takes appropriate steps to assure quality of audits and financial disclosures

CITY ATTORNEY'S GOALS

- City's bond ratings are restored
- City able to issue bonds at reasonable rates in the public markets
- Significant steps taken toward reduction of unfunded pension liability
- Restore the public's trust in the City and its officials

WE WELCOME YOUR INPUT

- IF YOU HAVE ANY SUGGESTIONS OR COMMENTS PLEASE FILL OUT A SPEAKER SLIP, IF YOU HAVE NOT ALREADY DONE SO.
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